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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,859	11/17/2006	Fabio Amiconi	102792-501 (11233P6 US)	4456
27389 7590 07/01/2009 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER STANLEY, JANE L				
ART UNIT		PAPER NUMBER		
1796				
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07/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/555,859

Applicant(s)

AMICONI ET AL.

Examiner

JANE L. STANLEY

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's reply filed **24 April 2009** has been fully considered. **Claims 1-16 and 18-24** are pending: **claims 1, 5 and 21** have been amended, **claims 2, 6-7, 11, 13, 20 and 22** are as originally filed, **claims 3-4, 8-10, 12, 14-16, 18-19 and 23-24** are as previously presented and **claim 17** is cancelled.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **24 April 2009** has been entered.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 8-13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee *et al.* (US PGPub 2001/006936).

Lee *et al.* teaches liquid cleaning compositions (Table 1, [0026]) comprising EDTA ammonium salts and/or ammonium citrate salts (EDTA, [0016]; EDTA ammonium salts and/or ammonium citrate, [0021]) (instant at least one water-softening active; instant acid; instant carboxylic acid; instant partially neutralized) wherein the EDTA and/or citrates have been reacted with an alkanolamine such as monoethanolamine,

diethanolamine, triethanolamine, etc ([0017]-[0019]; see Table 1) (instant organic base); and 25% to 75% by weight ([0016] In 6) of a polar solvent such as propylene glycol ([0020], In 4-5) (instant organic solvent); said wherein the composition can comprise less than 35 wt% water (see Table 1).

Lee et al. is silent as to the pH of the compositions. However, as the ammonium EDTA salts and/or ammonium citrate salts, polar solvents and water content disclosed by Lee et al. are the water-softening active, organic solvent and water content claimed, it is inherent that the composition(s) of Lee et al. would have this property it to be measured under the same conditions, absent evidence to the contrary.

While Lee *et al.* does not teach a composition specifically for use as a water-softener, the compositions that are taught by Lee *et al.* include the use of compounds that are known in the art to function as water-softeners (i.e. EDTA, citric acid, etc.) and so it is inherent that said compositions would function in the same capacity with a reasonable expectation of success absent an objective showing to the contrary. As such, the composition(s) as taught by Lee *et al.* anticipate the applicant's claimed invention.

Claims 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Duffield (GB 2374830).

Regarding claim 22, Duffield teaches a water-soluble container (pg 3, 23; pg 4, In 18-21) containing a liquid water-softening composition (pg 12, In 13; pg 13, In 15) comprising: carboxylates such as citrates and builders such as citric acid or polymers

(carboxylates, pg 18, ln 28; citric acid, pg 19, ln 30; polymers, pg 20, ln 4-8) (instant at least one water-softening active); C₁-C₃ alcohols (pg 20, ln 23-24) (instant organic solvent); electrolytes (pg 9, ln 5) (instant an electrolyte); and wherein the composition comprises less than 80 wt% or at least 10 wt% water (pg 13, ln 25-27) (instant greater than 35 wt% water).

Regarding claims 23-24, Duffield further teaches the compositions set forth above are contained in a thermoformed film pocket (pg 3, ln 21-30) made from water-soluble (page 4 ln 20-21) polymers including poly(vinyl alcohol) (pg 4, ln 28-31).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 5-7, 14-15 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffield (GB 2 374 830) in view of Corradini (GB 2 379 214).

Regarding claims 1-3, 5-7, 14-15, 18 and 20, Duffield teaches liquid (pg 12 In 23) water-softening (page 12 In 13; pg 12 In 15) compositions comprising: carboxylates such as citrates and builders such as citric acid or polymers such as polyacrylic acid and polyacrylic/polymaleic polymers (carboxylates, pg 18 In 28; citric acid, pg 19 In 30; polymers, pg 20 In 4-8) (instant at least one water-softening active; instant acid; instant carboxylic acid; instant monomeric polycarboxylic acid; instant polymer; instant polycarboxylic acid polymer; instant polyacrylic polymer); C₁-C₃ alcohols (pg 20 In 23-24) (instant organic solvent); and wherein the compositions can be anhydrous or comprise at least 5 wt% free water (pg 13 In 24-25) (instant less than 35 wt% water; instant anhydrous; instant less than 15 wt% free water).

Duffield teaches the pH of water-softening compositions is of 7 to 9 (page 21 In 4-5) and as such does not teaches a pH of between 4.0 to 6.0 when measured as a 5 wt% solution in deionised water at 20 °C. However, Corradini teaches similar water-softening compositions comprising at least one water softening agent including citric acid, polycarboxylates such as citrates, polycarboxylates polymers such as polyacrylates etc. (page 2 In 25 to page 3 In 20), and organic solvents such as C₁-C₄ alcohols (page 3 In 25-32), wherein the compositions have an ideal pH from 4 to 6 (page 4 In 8-14). Corradini and Duffield are analogous art because they are both

concerned with the same field of endeavor, namely water-softening compositions comprising alcohols and softening agents including carboxylates such as citrates, citric acid, and polymers such as polyacrylates. At the time of the invention a person having ordinary skill in the art would have found it obvious to form the compositions of Duffield with the pH taught by Corradini and would have found it obvious to do so in order to obtain water-softening compositions with optimum stability (Corradini page 4 In 9-10).

Regarding claim 19, Duffield in view of Corradini makes obvious the composition as set forth above.

Duffield does not disclose the composition as having a viscosity of 500 to 1,000,000 cps measured using a Brookfield viscometer with spindle S31 at 12 RPM and 20 °C. While Duffield does not teach the viscosity of the composition being measured using a Brookfield viscometer with spindle S31 at 12 RPM and 20 °C, since the composition disclosed is the claimed water-softening composition it is inherent, absent an objective showing to the contrary, that the composition of Duffield would have this property, a viscosity of 500 to 1,000,000 cps, absent evidence to the contrary.

Alternatively, Corradini teaches the similar water-softening compositions wherein the viscosity is from 1000 to 1400 cps when measured with a Brookfield LVF, spindle 2, 12 rpm and at 20 °C (Corradini: page 5 In 8-9; page 4 In 22-24). At the time of the invention a person having ordinary skill in the art would have found it obvious to form the compositions of Duffield with the viscosities taught by Corradini and would have been motivated to do so to form a stable gel for water-softening agents which performs well (Corradini page 1 In 7-9).

Regarding claim 21, Duffield in view of Corradini makes obvious the composition as set forth above. Duffield further teaches a water-soluble container containing a composition according to **claim 1** (abstract; page 4 In 20-21).

Response to Arguments

The objections to **claims 5, 17 and 21** for minor informalities are withdrawn as a result of Applicant's amendments to **claims 5 and 21** and cancellation of **claim 17**.

The 35 U.S.C. 102(b) rejection of **claims 1, 3, 5-7, 14-15 and 17-24** as anticipated by Duffield (GB 2374830) is withdrawn for **claims 1, 3, 5-7, 14-15 and 17-21** as a result of Applicant's amendments to independent **claim 1**, however the rejection is maintained for independent **claim 22** and subsequent dependent **claims 23-24**, see above. Applicant's arguments as to why the instant invention is not taught by Duffield are based upon a discussion of pH values. However, as independent **claim 22** has not been amended to reflect the pH of amended **claim 1**, the arguments are not commensurate in scope with the limitations of **claims 22-24**.

The 35 U.S.C. 102(b) rejection of **claims 1-2, 4, 8-13 and 16** as anticipated by Lee et al. (US PGPub 2001/006936) is maintained. Applicants have not pointed how the amendments to **claim 1** have overcome Lee et al. Furthermore, as the ammonium EDTA salts and/or ammonium citrate salts, polar solvents and water content disclosed by Lee et al. are the water-softening active, organic solvent and water content claimed, it is inherent that the composition(s) of Lee et al. would have this property it to be measured under the same conditions, absent evidence to the contrary.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JANE L. STANLEY whose telephone number is (571)270-3870. The examiner can normally be reached on Monday-Thursday, 7:30 am - 5 pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

/JLS/